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March 14, 2013

Marlene H. Dortch Secretary of the Federal Communications Commission 445 12th Street SW Washington, DC 20554

RE: In the Matter of Rates for Interstate Inmate Calling Services, WC Docket No. 12-375.

Dear Commission Secretary,

An analysis of any public policy proposal should include an assessment of both costs and benefits. A proposal to regulate inmate calling services is no exception and requires a thorough consideration of the costs and benefits to all stakeholders.

The most obvious consequences of this policy are the financial implications for taxpayers, telecommunications providers, people in prison, and their families. There are, however, many other potential costs and benefits. I will first discuss some of the benefits of family contact including phone calls, letters, and visiting, and will then discuss some of the costs of in-person visiting that heightens the need for regular phone contact with family members.

About the Vera Institute of Justice

I am writing as a representative of the Vera Institute of Justice (Vera). Vera is an independent nonprofit organization that combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety. The comments provided here draw on expertise from two departments of Vera: the Family Justice Program and the Cost-Benefit Analysis Unit.

The Family Justice Program: Vera's Family Justice Program provides extensive training and support to government and community partners to help them identify and leverage the inherent strengths and resources of families and communities. These system interventions are designed to benefit people at greatest risk of cycling in and out of the justice system. The Family Justice Program's principles and strategies were developed and tested at the direct-service center La Bodega de la Familia, which was a Vera demonstration project.

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Cost-Benefit Analysis Unit (CBAU): CBAU helps policymakers get clear, accessible information on the economic assets and liabilities associated with the criminal and juvenile justice policies of their jurisdictions. CBAU's national Cost-Benefit Knowledge Bank for Criminal Justice (CBKB), started in 2009 and funded by the U.S. Department of Justice's Bureau of Justice Assistance, helps build the capacity of the criminal justice field to use cost-benefit analysis in justice planning and policymaking. CBKB includes a website (www.cbkb.org) that acts as an information clearinghouse and center of a community of practice; publications, fact sheets, and scans of existing literature; a cost-benefit methods working group; roundtable discussions on criminal justice and cost-benefit analysis; and general education and training via podcasts, videocasts, webinars, and conference sessions.

Benefits of Family Contact

There are a number of benefits to family contact for people who are incarcerated. While the direct link between phone calls and prisoner behavior and outcomes post-release has not been well-studied, analogies can be drawn from studies of in-person visits. This research suggest that greater family contact can (1) promote better outcomes for incarcerated parents, thereby reducing the negative impact of their incarceration on their children, (2) promote facility safety, and (3) promote public safety.

Better outcomes for incarcerated parents and their children. The U.S. Department of Justice's Bureau of Justice Statistics estimates that, nationally, 52 percent of state prisoners are parents to children under age 18. While 78 percent of those parents had contact with their children (letter, phone, visits) since they had been admitted to prison, only 42 percent of parents had a visit with their children over that same timeframe. Phone contact was more frequent for parents in state prisons as 53 percent had phone contact with their children during their incarceration. Research shows that prison visitation is integral to managing incarcerated people's behavior, reducing recidivism, facilitating reentry, and promoting positive parent-child relationships. By promoting better outcomes for incarcerated parents, visitation can help reduce the negative effects of imprisonment and the stigma experienced by children of having an incarcerated parent. Maintaining relationships with their incarcerated parents can reduce children's risks of homelessness and of involvement in the child welfare system.

For children, visits with their incarcerated parents have proven beneficial on a number of levels including being associated with higher self-esteem, improved non-verbal IQ scores, better adjustment to

¹ Lauren E. Glaze and Laura M. Maruschak, *Parents in Prison and Their Minor Children* (Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, 2008) 6.

² Glaze and Maruschak, 2008, p. 6.

³ Glaze and Maruschak, 2008, p. 18.

⁴ Damian J. Martinez and Johnna Christian, "The Familial Relationships of Former Prisoners: Examining the Link Between Residence and Informal Support Mechanisms," *Journal of Contemporary Ethnography* 38, no. 2 (2009): 201-24; Creasie Finney Hairston, "Prisoners and Their Families: Parenting Issues During Incarceration," (paper presented at From Prison to Home: The Effect of Incarceration and Reentry on Children, Families and Communities, a conference hosted by the U.S. Department of Health and Human Services and Urban Institute, Washington DC, January 30-31, 2002); Rebecca Naser and Christy Visher, "Family Members' Experiences with Incarceration and Reentry," *Western Criminology Review* 7, no. 2 (2006): 20-31.

⁵ Christopher Wildeman and Bruce Western, "Incarceration in Fragile Families," Future of Children, 20(2) (2010): 168.

school and foster care, and fewer behavioral problems.⁶ Absent these opportunities to stay connected with their parents, children may end up struggling with truancy, juvenile justice involvement, foster care, or homelessness—systems with significant financial and emotional costs.⁷ Unfortunately, families often face multiple barriers to visiting their loved ones, including prohibitive costs and significant distances. Given these barriers to visiting, it is particularly important that phone connections are an affordable option since they can help parents and children stay connected between visits.

Improvements in facility safety. Prison visitation has proven benefits for incarcerated people and their families, as well as for facility safety and reentry outcomes. Studies are underway to examine if other modes of contact, including video visitation, offer similar benefits to facility safety. For corrections staff, family visits contribute to facility safety because they motivate prisoners to complete programs and follow facility rules. The Washington State Department of Corrections found that incarcerated people who receive regular visits from family were *six times less likely* to commit a violation in prison.⁸ A forthcoming publication by Vera reports on research finding that incarcerated youth who were visited at least weekly had fewer behavior infractions and higher GPAs than youth who were never visited or youth who were visited less than once a week.⁹

One outstanding question is whether video visits provide the same benefits to prisoners and to the staff of prisons as in-person visits. Vera is undertaking a study of video visitation, funded by the National Institute of Justice, to explore whether providing prisoners with access to video visitation increases the nature and frequency of prisoners' contact with their families and other people who support them. It will also explore if these contacts improve prisoners' compliance with custodial rules and outcomes after their release from prison. To learn the degree to which the video visitation program could be replicated in other jurisdictions, if shown to have a positive impact, Vera will also assess the impact of the program on corrections culture, operations and budgets. Vera is working in partnership with the Washington State Department of Corrections (DOC) to conduct this study.

Problems associated with illegal cell phones. Corrections departments are also facing a costly unintended consequence of high phone call rates: the increased demand for illegal cell phones in prisons. States are finding that people behind bars are using cell phones to log on to Facebook and stay in touch with family members and friends on Twitter. In California, the problem grew so large—between 2007 and 2011, the number of cell phones found grew from 1,400 to more than 15,000— that a

⁶ Venezia Michalsen, Jeanne Flavin, and Tanya Krupat, "More than Visiting Hours: Maintaining Ties Between Incarcerated Mothers and their Children," *Sociology Compass* 4/8 (2010): 580.

⁷ Wildeman and Western, 2010, p. 168.

⁸ Margaret diZerega and Jules Verdone, *Setting an Agenda for Family-Focused Justice Reform*, (New York: Vera Institute of Justice, 2011), 7.

⁹ Sandra Villalobos Agudelo (forthcoming), *The Impact of Family Visitation on Incarcerated Youth's Behavior and School Performance: Findings from the Families as Partners Project*, (New York: Vera Institute of Justice, 2013).

¹⁰ Vera Institute of Justice. "A New Role for Technology: The Impact of Video Visitation on Corrections Staff, Inmates, and their Families."

http://www.vera.org/project/new-role-technology-impact-video-visitation-corrections-staff-inmates-and-their-families ¹¹ Kim Severson and Robbie Brown, "Outlawed, Cellphones Are Thriving in Prisons," *The New York Times*, January 2, 2011. http://www.nytimes.com/2011/01/03/us/03prisoners.html?pagewanted=all&_r=0 (accessed February 26, 2013).

new law was passed to make it illegal to own a cell phone in prison or to bring one in. ¹² The state's corrections department implemented a new K-9 program to use specially trained dogs to sniff out phones as well as introduced new technology to identify phones and block messages from coming into the prison. ¹³

Illegal cell phones, given their value to prisoners, can have other negative consequences beyond the costs for finding them. Staff-on-prisoner sexual abuse occurs, in part, so that inmates can gain access to contraband or privileges. Contraband as gifts has been identified as one of the main incentives that can result in coerced sexual relationships between staff and prisoners. While it is unknown how often cell phones are exchanged between staff and prisoners, numerous reports of staff-on-prisoner abuse involve transactions of contrabands. This is starkly illustrated in the study by the Office of the Inspector General, which found that "[n]early half of the subjects in OIG sexual abuse cases also smuggled contraband into prisons for the inmates with whom they had sexual relationships." Moreover, after the abuse happens, prisoners are less likely to report the abuse because of the receipt of such contrabands and privileges. Lowering the demand for cell-phones, by making phone calls more affordable, may reduce the use of cell phones by staff to coerce prisoners.

Improvements in public safety. Data collected by the Minnesota Department of Corrections found that those who receive visits—especially visits from siblings, in-laws, fathers, and clergy—are less likely to commit a subsequent crime resulting in incarceration by as much as 13 percent. Such visits also facilitate community reentry because families are often the primary source of support for housing, clothes, food, and other necessities. As mentioned earlier, for families that are unable to visit frequently, much of this critical planning is also happening by phone.

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¹² California Department of Corrections and Rehabilitation, "How California is cracking down on illegal cell phone use in prison," http://www.cdcr.ca.gov/contraband-cell-phones/index.html (accessed February 26, 2013). See also "CDCR Fact Sheet: Contraband Cell Phone in CDCR Prisons and Conservation Camps, April 2012," http://www.cdcr.ca.gov/Contraband-Cell-Phones/docs/Contraband-Cell-Phone-Fact-Sheet-April-2012.pdf (accessed February 26, 2013).

¹³ "CDCR Fact Sheet: Contraband Cell Phone in CDCR Prisons and Conservation Camps, April 2012," http://www.cdcr.ca.gov/Contraband-Cell-Phones/docs/Contraband-Cell-Phone-Fact-Sheet-April-2012.pdf (accessed February 26, 2013).

¹⁴ Anthony C. Thompson, *What Happens behind Locked Doors: The Difficulty of Addressing and Eliminating Rape in Prison*, 35 New Eng. J. on Crim. & Civ. Confinement (2009), 166.

¹⁵ See, e.g., David M. Reutter, "Pennsylvania County Jail System Overcrowded, Under-Regulated," *Prison Legal News*, https://www.prisonlegalnews.org/(X(1)S(uoicsvrjdxeipi452tqevq55))/19243_displayArticle.aspx (accessed March 4, 2013); Chris Cole, "FBI: Phoenix prison worker accused of sex with inmates," *The Arizona Republic*, August 31, 2012, http://www.azcentral.com/arizonarepublic/local/articles/2012/08/31/20120831phoenix-prison-worker-accused-sex-inmates-abrk.html?nclick_check=1 (accessed March 4, 2013); Associated Press, "Prison Abuse Allegations," *WKRG News*, May 22, 2012, http://www2.wkrg.com/news/2012/may/22/prison-abuse-allegations-ar-3838904/ (accessed March 4, 2013).

¹⁶ Office of the Inspector General, *Deterring Staff Sexual Abuse of Federal Inmates*, (Washington, DC: Office of the Inspector General, U.S. Department of Justice, 2005), 7.

¹⁷ Office of the Inspector General, 4.

¹⁸ Minnesota Department of Corrections, "The Effects of Prison on Offender Recidivism, November 2011" http://www.doc.state.mn.us/publications/documents/11-11PrisonVisitationResearchinBrief_Final.pdf (accessed January 13, 2012).

The impact of visitation on recidivism reduction could have significant cost implications considering that more than four in ten offenders nationwide return to state prison within three years of their release. ¹⁹ By focusing on ways to increase contact through visits and phone calls, corrections departments can better leverage these positive benefits of family contact to the incarcerated populations.

The Relative Costs of Phone Contact and In-Person Visitation

Despite evidence that visitation has multiple benefits for public safety, families and friends encounter numerous barriers to visiting their loved ones. Chief among these are financial costs and distance. Regular phone contact is often the only way to maintain an on-going connection with family members, thereby heightening the public policy necessity of affordable prison calling services.

The many costs families face to stay in touch with an incarcerated loved one include depositing money in a prison commissary account, purchasing stamps to write letters, sending packages, and incurring travel expenses. Other commenters have testified to the additional costs of collect phone calls. One study of visits by New York City residents to family members in New York State prisons found that each visitor spent at least \$80 per visit for items such as a bus ticket, food and drink en route, prison vending machine items, and packages of food or clothes for their loved one. ²⁰

These costs are in addition to childcare costs and costs associated with missing work to attend visits. For many families, these expenses limit their ability to visit, force difficult decisions about which bills to pay, and drain limited financial reserves thereby putting families in a position that will make it more difficult for them to support their loved ones upon their return to the community.²¹

Conclusion

Given the costs associated with visiting and the cumulative financial burden families experience when a loved one is in prison, it is particularly important that families can stay in touch by phone. These connections yield benefits for prisoners' children and have additional public safety and facility safety benefits. Phones also offer prisoners a way to get access to counsel and contact service providers who can help with reentry planning, further improving their chance at a successful return to the community.

Sincerely,

Margaret diZerega

Director, Family Justice Program

¹⁹ Pew Center on the States, State of Recidivism: The Revolving Door of America's Prisons, April 2011.

²⁰ Johnna Christian, "Riding the Bus: Barriers to Prison Visitation and Family Management Strategies," *Journal of Contemporary Criminal Justice*, Vol. 21 No. 1 (2005): 31-48.

²¹ Johnna Christian, Jeff Mellow, and Shenique Thomas, "Social and Economic Implications of Family Connections to Prisoners," *Journal of Criminal Justice* 34 (2006): 449.